

Exhibit 48

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Behind Buffalo's dramatic rise in traffic tickets

By Matthew Spina
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With the city now squarely in the traffic-ticket business, Buffalo police issue more citations. Here, veteran Officer Obed Casillas stops a driver on the "S-Curves" section of Delaware Avenue.

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Throughout last year, Buffalo police pulled over more drivers and handed more tickets to each.

But the flood began in July – after City Hall created its new “traffic violations agency” to grab more money than ever from traffic fines.

The traffic agency flung open its doors July 1. From that day through December, police issued 30,000 tickets, nearly 10,000 more than the latter half of 2014.

These days, officers don’t hand just one citation to a driver, according to figures from Police Commissioner Daniel Derenda. With new software making it easy, they average three.

The torrent of tickets written from July to December, documented by state data and obtained by The Buffalo News, will eventually rain millions of dollars onto City Hall. But the deluge of tickets was so huge it initially swamped the young traffic agency and left it struggling to collect the windfall.

Buffalo is hardly the first city, town or village to squeeze drivers for more government cash.

“This raises a bigger issue,” the Rev. James Giles said of the spike in ticket-writing.

Giles is a leading figure in the local “restorative justice” movement that advocates better responses to wrongdoing than punishment alone.

All citizens should obey the law, Giles said. Yet when governments ramp up enforcement chiefly to grab more money, they hurt the poor the most, he said. Hit with traffic fines they can’t pay, the poor risk the loss of driving privileges, a job and their financial underpinnings, he said.

“Is this a fair way to gain revenue?” Giles asked. “It may establish something else that government did not intend.”

Buffalo’s new agency has already moved to suspend the licenses of 4,400 drivers, a city official said.

Shifting expectations

Mayor Byron W. Brown had long sought Albany's approval to let Buffalo enter the traffic-ticket business. He wanted city employees, not those with the state Department of Motor Vehicles, to strike the bargains that allow motorists to protect their driving records and the city to keep more from the fines they were dealt.

The mayor's budget-makers predicted a \$5 million haul in the first year, and city police seeded the bounty. While some of their 30,000 tickets cited more-serious infractions and were bound for City Court, the majority went to the traffic violations agency, which inherited another pile of 30,000 pending tickets from the DMV.

The city's new agency was quickly overwhelmed.

Budget-makers cut their first-year revenue estimate to \$2.5 million. Now the totals for the first seven months are in: \$682,000.

For comparison, when the state Department of Motor Vehicles handled the city's ticket business out of a downtown office, it handed City Hall \$500,000 to \$600,000 in a typical year. For that, the city didn't have to pay more than \$300,000 in expenses.

City officials had once vowed they would be ready to handle traffic-tickets come July 1. But the early months showed kinks needed to be ironed out. And this was after Gov. Andrew M. Cuomo delayed the switch for a year because of fears the transition would be rushed.

One remedy

It's Kevin Helfer's job to reverse the trend. He's the commissioner of parking enforcement who doubles as head of the traffic violations agency.

"The logistics of starting a completely new process and a completely new office – those challenges take some time to overcome," Helfer said.

To work out plea agreements, the city's prosecutor could see about 60 people a day Monday through Friday. But the nine police agencies operating in Buffalo were averaging more than 200 tickets every day of the week, with Buffalo cops writing the

vast majority.

The prosecutor's appointments had to be scheduled far into the future. Yet until the driver and prosecutor met, no fine was paid.

"There were a lot more than 60 people needing to be seen in a day, and our appointments were being pushed out for months," Helfer said.

He turned to a remedy common with town courts. The agency now sends drivers letters offering bargains based on the seriousness of the infraction and the driver's record.

There are advantages to drivers pleading by mail. It speeds up the moment at which the driver and prosecutor reach their terms. It lets the city more quickly reach the point when it acts against drivers who balk at paying the fine. And drivers need not take time off of work. Unlike town and village courts that maintain late-day sessions, Buffalo's traffic violations agency keeps only business hours.

Already, monthly income is growing. In December, the agency took in \$97,000 for city government. That was its best month until January's \$163,000.

Helfer said the city hasn't lost money; it's going to collect it later than expected. He predicted that in time, the agency will reliably collect \$2.5 million each year.

"You are going to see a significant increase in revenue over time," he said.

The plea bargain

A labyrinth of rules determines whether money from fines stays local or goes to Albany. But local governments keep fines they collect for violations of their local ordinances – parking ordinances, for example.

Michael T. Dwan, a Buffalo lawyer specializing in vehicle-and-traffic law cases, said most of his clients in Buffalo's traffic violations agency end up pleading to parking violations. Under the old system, plea bargains were almost unheard of.

“It’s a huge improvement from the way it was before,” Dwan said. “When the DMV was running the traffic ticket bureau out of the Ellicott Square building, it was a pretty bleak situation. It’s much more reasonable now. It’s more consistent with the suburbs.”

In almost every case he has seen in which a moving violation was reduced to a parking ticket, the city prosecutor, John J. Hannibal, insisted on the maximum fine: \$150 plus a \$25 surcharge.

The governor in 2013 tried to limit the plea bargaining going on in local courts because it masked the records of repeat offenders and cost the state money. But Cuomo couldn’t get the bulk of his proposal through the Legislature.

In Buffalo, 95 percent of drivers take the plea bargain they are offered, Helfer said, and it virtually always involves a parking ticket.

Big fines, no points

Inertia Huff, a 27-year-old woman with a ready smile, has been there, done that. She was driving on Bailey Avenue, in a hurry because she was running late, when a police officer stopped her to cite her for driving 46 in a 30 mph zone. That was Sept. 24.

Four months later, on Jan. 28, she emerged from her traffic agency conference. She had pleaded to not one but two traffic tickets, at a total cost of \$350. She had no complaints. No points would come off her license.

Just minutes after Huff walked out of Room 115, a city police officer was handing a ticket to a driver he had pulled over near Niagara Square, in the shadow of City Hall. It was one of the potential 60,000 tickets that Buffalo police are on pace to write before the end of June.

Don’t think that the surge in traffic tickets was timed to coincide with the start of the new traffic violations agency, says Derenda, the police commissioner. He attributes the year-to-year increase to a few factors. One was the months-long flurry of about 1,200 traffic stops on Route 198, the Scajaquada Expressway, where the speed limit was

abruptly lowered from 50 mph to 30 mph after an accident May 30 killed a 3-year-old boy in Delaware Park. Stepped-up enforcement there was followed by citizen requests for more traffic enforcement in neighborhoods around the city, Derenda said. Then by 2013 there was widespread use of the new Traffic and Criminal Software system in patrol cars. With a swipe of a driver's license and a few flicks of a forefinger, police can generate multiple tickets.

Still, figures from the Department of Motor Vehicles office in Albany show that Buffalo's ticket-writing rose dramatically beginning July 1. Consider: In June, when the Scajaquada's speed limit was lowered because of the child's tragic death, city officers wrote about 3,700 tickets – fewer than the prior month.

One month later, with the traffic violations agency open, they wrote 5,300, a jump of 43 percent, or 54 more tickets every day.

A form of taxation

“The timing is quite coincidental, isn't it?” said John Bowman, vice president of the National Motorists Association.

The association, headquartered in Wisconsin, has about 9,000 members and says it's “dedicated to protecting the rights of the motoring public.”

The association argues that the traffic-ticket system nationwide needs an overhaul. Decisions that police and judges make as they enforce traffic laws and set fines directly benefits their agencies, their personnel and their local governments. How can police and the courts then be impartial as they handle traffic citations?

To take self-interest out of the system, the association urges that all money collected from fines be sent to state capitals and distributed back to local governments based on population.

“Certainly there has to be a revenue incentive there for writing all those tickets,” Bowman said, when told of the situation in Buffalo. “I can't imagine that all of a sudden 50 percent more people are speeding or running red lights.”

Daniel J. Ward would agree. He's an attorney and a former Amherst town supervisor who in recent years became alarmed by the data collected every day by those cameras you see mounted on many patrol cars. They are high-speed readers that alert officers to, say, a car that has been reported stolen being driving in proximity. The readers also store an image of every plate they scan. Critics say they can potentially document the doctors someone visits or where they sleep at night.

Like the Rev. Giles with the restorative justice movement, Ward said the governments churning out traffic fines to balance budgets hurt the poor the most.

"A lot of traffic tickets are being written everywhere," Ward said. "A lot of them are kind of needless. What it's really become is a third level of taxation.

"Nobody wants to say 'We are raising taxes,' " he said. "But this is a way of doing it."

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